

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5712 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GHANSHYAMLAL H DAVE & ANR.

Versus

STATE OF GUJARAT & OTHERS

Appearance:

MR AM RAVAL for Petitioners

MR HL JANI for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 11/12/96

ORAL JUDGEMENT

Heard learned counsel for the parties and perused the Special Civil Application.

The petitioner prayed for issuing an appropriate mandamus or writ, direction or order to treat the case of the petitioner no.1 as in service of the Government upto the year 1972, (date of superannuation) with right to obtain promotions and perquisites available to a

Government servant and award full pension to the petitioner no.1 that he would be entitled to from the date of his retirement in the year 1972 with right to get gratuity under the rules.

This claim of the petitioner is wholly misconceived. The petitioner's own case is that he served the erstwhile State of Vadodara from 1938 to 1943 and thereafter he could not work due to his involvement in the freedom movement. The petitioner has claimed the aforesaid benefit on the ground that the freedom fighters should have been reinstated back in the service, but I fails to see any justification in this contention. After the petitioner freed himself from the freedom movement of the country, it was his duty to make a request for taking him back in the service, if he was willing and desirous of serving the State which admittedly the petitioner did not make. On the basis of his service rendered by him in the erstwhile State of Vadodara he has been given ex-gratia pension otherwise he was not having to his credit the qualifying services.

The petitioner's counsel admitted that first time in the year 1968, the petitioner made a representation to take him back in service. In all the circumstances and eventualities, the petitioner would have freed himself from the freedom movement on 15th August, 1947 or 26th January, 1950, but earlier to 1968 he has never prayed for taking him back in service. This conduct of the petitioner goes to suggest that he was not interested in work, and as such, this claim which has been made by him after more than 21 years is difficult to appreciate, what to say to accept the same. The subsequent correspondence and reply of the Government is not relevant, but relevant is the fact that the petitioner has made his claim for reinstatement in the service only after 21 years of independence of country. No such belated claim can be allowed only on the ground that the petitioner has participated in the freedom movement of the country.

In the result, this writ petition fails and the same is dismissed. Rule discharged.

zgs/-